

Introduced by Senator Machado
(Coauthor: Assembly Member Daucher)

February 18, 2005

An act to add Section 56509 to the Education Code, relating to special education.

LEGISLATIVE COUNSEL'S DIGEST

SB 605, as introduced, Machado. Special education: alternative dispute resolution.

Existing law provides procedural safeguards, including due process hearings, for the resolution of complaints regarding alleged violations of the federal Individuals with Disabilities Education Act. Existing law also authorizes parties to special education disputes to seek resolution through mediation prior to filing a request for a due process hearing.

This bill would require the State Department of Education to establish and administer a statewide program of grant funding, with specified components, to support special education local plan areas in conducting alternative dispute resolution programs for resolving special education disputes. The bill would state the intent of the Legislature to make \$300,000 available for purposes of the program, on an annual basis, adjusted by the cost of living, would prescribe the allocation of funds under the program, would require grant recipients to perform specified services related to alternative dispute resolution, and would prescribe other matters related to the grant program. The bill would provide that the grants awarded under the program and the administrative costs incurred by the department to administer the grant program are to be funded with moneys appropriated from the Federal Trust Fund in the annual Budget Act. The bill would require the Legislative Analyst to submit an evaluation related to the program to

the department, the Legislature, and the Governor on or before January 1, 2008.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. (a) The Legislature finds and declares as
2 follows:
- 3 (1) The Individuals with Disabilities Education Act (20 U.S.C.
4 Sec. 1400 et seq.) encourages the use of mediation to resolve
5 disputes between parents of children with disabilities and local
6 educational agencies.
- 7 (2) The only statewide mediation process available to parents
8 and local educational agencies is a prehearing mediation
9 conference pursuant to a request filed with the state or a
10 mediation conference scheduled after a request for a due process
11 hearing has been filed with the state.
- 12 (3) The number of requests for special education due process
13 hearings and complaints filed by parents of children with
14 disabilities against local educational agencies has increased
15 significantly in recent years.
- 16 (4) The costs of litigation, state level mediation, and
17 investigation of complaints have likewise increased significantly
18 in recent years.
- 19 (5) The current system of dispute resolution often results in
20 adversarial relationships between parents and local educational
21 agencies, thereby affecting the provision of an appropriate
22 education to children with disabilities.
- 23 (6) A limited number of special education local plan areas
24 (SELPA) have implemented an alternative dispute resolution
25 process that has successfully resolved disputes at the local level,
26 thereby reducing the amount and cost of litigation and complaint
27 investigation at the state level.
- 28 (7) Parents of children with disabilities are entitled to other
29 options for dispute resolution at the local level that are cost
30 effective.
- 31 (8) Through an alternative dispute resolution program,
32 children with disabilities may receive appropriate services in a
33 less time consuming process.

(b) It is, therefore, the intent of the Legislature to do all of the following:

(1) Establish new options for alternative dispute resolution at the local level through coordination by the SELPA system or collaboration of multiple SELPAs.

(2) Ensure that these new options do not interfere with a parent's right, under state and federal law, to pursue other options at the state level, but work in conjunction with these options to provide a greater variety of options to the parent.

(3) Establish a program with funding to support the development and implementation of alternative dispute resolution in each SELPA throughout the state.

(4) Establish a mentorship program to help guide SELPAs in implementing new alternative dispute resolution programs.

SEC. 2. Section 56509 is added to the Education Code, to read:

56509. (a) The department shall establish and administer a statewide program of grant funding to establish alternative dispute resolution programs for special education that includes all of the following:

(1) An advisory board that includes representatives from local alternative dispute resolution projects to ensure ongoing communication.

(2) An annual statewide conference for all implementers of alternative dispute resolution programs.

(3) Criteria for awarding grants, funding, data collection, and evaluating alternative dispute resolution projects.

(4) The selection of recipients and allocation of funding.

(5) The selection of individuals to serve as mentors to support implementers.

(b) It is the intent of the Legislature that the department be funded at three hundred thousand dollars (\$300,000) annually, as adjusted annually by the cost of living, to carry out its responsibilities under subdivision (a).

(c) Subject to the availability of funding for this purpose, funding for grant recipients shall be at the following levels:

(1) Special education local plan areas (SELPA) and multi-SELPA applicants selected by the department shall receive fifty thousand dollars (\$50,000) annually, as adjusted annually by

1 the cost of living, for a period not to exceed three years for initial
2 implementation purposes.

3 (2) SELPAs and multi-SELPA applicants that continue to
4 implement alternative dispute resolution programs after the initial
5 three years shall receive ongoing funding at twenty-five thousand
6 dollars (\$25,000) annually plus twenty-five cents (\$0.25) per
7 average daily attendance of all pupils in the member school
8 districts of the SELPA, as adjusted annually by the cost of living
9 and as recommended by the department for ongoing program
10 maintenance.

11 (d) SELPAs and multi-SELPA collaboratives receiving
12 funding under this section shall provide the following services:

- 13 (1) Intake coordination.
- 14 (2) Prevention activities.
- 15 (3) Formal dispute resolution activities.
- 16 (4) Training of parents and local educational agency staff.
- 17 (5) Data collection.
- 18 (6) Narrative reports of alternative dispute resolution training
19 and other activities.
- 20 (7) Expenditure reports.
- 21 (8) Evaluation activities.
- 22 (9) Participation in statewide alternative dispute resolution
23 conferences.

24 (e) The department shall administer a mentorship program that
25 identifies individuals whose responsibility is to provide support
26 to implementers. These individuals shall be responsible for the
27 following activities:

- 28 (1) Participation in or providing input for the meetings of the
29 alternative dispute resolution advisory board.
- 30 (2) Participation in the statewide alternative dispute resolution
31 conference.
- 32 (3) An annual report of activities to the department.
- 33 (4) Consultation, training, and other technical assistance to
34 support the department and SELPAs to implement the provisions
35 of this section.
- 36 (5) Contracting with individuals to mentor planning and
37 implementing.

38 (f) An amount of two hundred thousand dollars (\$200,000)
39 annually, as adjusted annually by the cost of living, shall be

1 authorized to implement the mentorship program. This amount
2 may be distributed in the following manner:

3 (1) Five thousand dollars (\$5,000) annually, as adjusted
4 annually by the cost of living, per individual who is currently a
5 local educational agency or SELPA employee authorized to
6 provide mentor support to implementers. In addition, each local
7 educational agency or SELPA employer of the mentor shall
8 receive five thousand dollars (\$5,000) annually, as adjusted
9 annually by the cost of living.

10 (2) One hundred thousand dollars (\$100,000) annually, as
11 adjusted annually by the cost of living, per individual who is not
12 currently a local educational agency or SELPA employee, but is
13 authorized to provide mentor support to implementers.

14 (g) Grants awarded by the department under this section and
15 the administrative costs incurred by the department to administer
16 the grant program shall be funded with moneys appropriated
17 from the Federal Trust Fund in accordance with Item
18 6110-161-0890 of the annual Budget Act.

19 (h) On or before January 1, 2008, the Legislative Analyst shall
20 coordinate the data and reports submitted by mentors to the
21 department pursuant to subdivision (e), analyze the data, compile
22 one comprehensive evaluation, and submit the evaluation to the
23 department, the Legislature, and the Governor. The evaluation
24 shall also include, but not be limited to, a report on all of the
25 following:

26 (1) Performance of the mentorship program.

27 (2) Implementation of alternative dispute resolution programs
28 at the SELPA level.

29 (3) Cost benefit analysis on the grant program.